

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE VISA CHECK/MASTERMONEY
ANTITRUST LITIGATION

ORDER

96-CV-5238 (JG) (RLM)

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JOHN GLEESON, United States District Judge:

Constantine Cannon LLP (“Lead Counsel”) has moved for the appointment of an Independent Expert to advise the Court on the securitization of the Settlement Funds. The motion is granted. Pursuant to Fed. R. Evid. 706, the Court hereby appoints Professor Bernard Black, of the University of Texas at Austin, as an Independent Expert to advise the Court on Lead Counsel’s proposal to securitize the Settlement Funds. This appointment is subject to the following terms and conditions:¹

- (a) Professor Black may have *ex parte* contacts with the Special Master, the Court, counsel for any party, financial advisors retained by counsel for any party, and the underwriters for the securitization.
- (b) As Independent Expert, Professor Black’s duties shall include all tasks necessary or appropriate for him to prepare a written report and recommendation advising the Court on whether a securitization proposal or proposals to be presented by Lead Counsel are consistent with the Settlement Agreement and are in the best interests of the class as a whole. These tasks include, but are not limited to, becoming familiar with the Settlement Agreements with MasterCard International and Visa U.S.A., the Amended Plan of Allocation, other materials related to the settlements, and the securitization proposal submitted by Lead Counsel; evaluating the process through which Lead Counsel solicited bids from investment banks for the securitization; providing advice to Lead Counsel with regard to the securitization proposal; and assessing the fairness of the proposal from a financial point of view. The Court may publish Professor Black’s report and recommendation on the webpage for this litigation.
- (c) Documents, information and materials provided to Professor Black may be designated as “CONFIDENTIAL.” Professor Black shall

¹ The Special Master previously has discussed both Professor Black’s appointment and the terms of this order with Lead Counsel, counsel for MasterCard International and counsel for Visa U.S.A.

not disclose documents, information or materials designated “CONFIDENTIAL” to any other party, person or entity unless he receives (a) written authorization for such disclosure from the party, person or entity that made the original designation; or (b) a court order authorizing such disclosure. The parties will be provided with an opportunity to review Professor Black’s report and recommendation and to redact any of their “CONFIDENTIAL” information or material from it before it is published on the webpage for this litigation. If a dispute arises with respect to any such redaction, it shall be resolved by the Court.

- (d) Professor Black shall be paid at the rate of \$800 per hour plus disbursements, including reasonable travel expenses, with such payment to be paid out of the Settlement Funds. Professor Black shall send his invoices directly to Lead Counsel, with a copy emailed to the Special Master, who shall review them for reasonableness. If Lead Counsel has any objection to the amount or payment of an invoice, such objection shall be made by written submission sent by email to the Special Master within 10 business days of Lead Counsel’s receipt of the invoice, with a courtesy copy filed with the Court. Upon receiving approval for payment of an invoice from the Special Master, Lead Counsel shall remit payment for fees and disbursements directly to Professor Black.

So ordered.

John Gleeson, U.S.D.J.

Dated: March 20, 2008
Brooklyn, New York